



Virginia  
Regulatory  
Town Hall

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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Virginia Department of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 40-730
<b>Regulation title</b>	Investigation of Child Abuse and Neglect in Out of Family Complaints
<b>Action title</b>	Review and Amend Investigation of Child Abuse and Neglect in Out of Family Complaints
<b>Date this document prepared</b>	August 18, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

This proposed regulatory action amends the Investigation of Child Abuse and Neglect in Out of Family Complaints regulation, 22 VAC 40-730, to conform to the Child Protective Services (CPS) regulation, 22 VAC 40-705. The Investigation of Child Abuse and Neglect in Out of Family Complaints regulation establishes additional requirements for investigating CPS complaints in state licensed and religiously exempted child day centers, regulated family day homes, private and public schools, group residential facilities, and hospitals or institutions. Conformity in content and definitions between the two regulations is appropriate, therefore, to maintain consistency across regulations for the investigation of child abuse and neglect. In addition, a general review of this regulation is warranted, as it has been four years since the regulation was reviewed.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Section 63.2-217 of the Code of Virginia (Code) authorizes the State Board of Social Services (Board) to promulgate regulations to carry out the administration of social services in the Commonwealth under Chapter 15 (63.2-1500 et seq.) of Title 63.2 of the Code. Sections 63.2-1506, 63.2-1511 and 63.2-1516.1 provide additional legal mandates for CPS investigations in out of family settings.

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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This proposed action is necessary to ensure conformity in content and definitions between regulations providing for the investigation of child abuse and neglect. Conformity across CPS regulations is essential for consistency in critical decisions involving the health, safety and welfare of children and families. Four years have passed since a periodic review of this regulation was completed. A general review is therefore warranted, in addition to updating the definitions.

**Substance**

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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A general review of the Investigation of Child Abuse and Neglect in Out of Family Complaints regulation, 22 VAC 40-730, is proposed. Amendments to the definitions in 22 VAC 40-730 will be proposed to ensure conformity with the definitions in the CPS regulation, 22 VAC 40-705. This will ensure conformity across regulations pertaining to CPS investigations. Changes to correct other deficiencies may also be proposed.

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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No alternative action was considered because the Code requires local departments of social services to conduct investigations of suspected child abuse and neglect in out of family settings. Conformity across CPS regulations is essential for consistency in critical decisions involving the health, safety and welfare of children and families.

**Public participation**

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated*

*in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

The Department of Social Services (DSS) is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal; 2) the costs and benefits of the alternatives stated in this background document or other alternatives; and 3) potential impacts of the regulation. DSS is also seeking information on impacts to small businesses as defined in § 2.2-4007. Information may include 1) projected reporting, recordkeeping and other administrative costs; 2) probable effect of the regulation on affected small businesses; and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

In addition, DSS is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website [www.townhall.virginia.gov](http://www.townhall.virginia.gov) , or by mail, email or fax to Mary Wilson, Virginia Department of Social Services, Division of Family Services - 11<sup>th</sup> Floor, 801 East Main St., Richmond, VA 23219; Email: [mary.m.wilson@dss.virginia.gov](mailto:mary.m.wilson@dss.virginia.gov) ; or Fax: (804) 726-7499 (attn. Mary Wilson). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

**Participatory approach**

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

DSS will use a participatory approach in the development of the proposal using the Child Protective Services Policy Advisory Committee, which is composed of state and local CPS professionals, and the Children’s Justice Act /Court Appointed Special Advocate Advisory Committee, which is a multidisciplinary citizen review panel.

**Family impact**

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This proposed regulatory action will have no impact on the institution of the family and family stability. It will establish conformity across regulations for the investigation of child abuse and neglect for consistency in critical decisions involving the health, safety and welfare of children and families. Proposed changes are not anticipated to affect marital commitment or family income.